Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
National Exchange Carrier Association, Inc.	)	WC Docket No. 06-223
2007 Modification of Average Schedules	)	
	)	

ORDER

Adopted: June 8, 2007 **Released: June 8, 2007**

By the Chief, Pricing Policy Division, Wireline Competition Bureau:

1. On December 21, 2006, the National Exchange Carrier Association, Inc. (NECA) filed proposed modifications to the current average schedule formulas to become effective July 1, 2007.[1] NECA's filing was submitted in accordance with Commission rules that require NECA to submit proposed modifications to the average schedule formulas annually or to certify that no modifications are warranted.[2] For the reasons set forth below, we approve the average schedule formulas and the transitional implementation plan as requested by NECA.

2. By Public Notice issued January 29, 2007, we sought comment on NECA's filing.[3] The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) and the National Telecommunications Cooperative Association (NTCA) filed comments supporting NECA's proposed revisions to the average schedule formulas and the transition plan.[4] AT&T Inc. (AT&T) and Verizon filed comments primarily opposing the transition plan.[5] NECA, NTCA, and AT&T filed reply comments.[6]

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1 *National Exchange Carrier Association, Inc.'s 2007 Modification of Average Schedule Formulas* (filed Dec. 21, 2006) (*2007 NECA Proposed Modification of Average Schedule Formulas*).

2 47 C.F.R. § 69.606(b).

3 *National Exchange Carrier Association, Inc.'s Proposed 2007 Modification of Average Schedule Formulas*, WC Docket No. 06-223, Public Notice, DA 07-306 (rel. Jan. 29, 2007).

4 Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies, WC Docket No. 06-223 (filed Feb. 13, 2007) (OPASTCO Comments); Comments of the National Telecommunications Cooperative Association, WC Docket No. 06-223 (filed Feb 12, 2007) (NCTA Comments).

5 Comments of AT&T Inc., WC Docket No. 06-223 (filed Feb. 14, 2007) (AT&T Comments); Comments of Verizon, WC Docket No. 06-223 (filed Feb. 13, 2007) (Verizon Comments).

6 Reply Comments of the National Exchange Carrier Association, Inc., WC Docket No. 06-223 (filed Feb. 23, 2007) (NECA Reply Comments); Reply Comments of the National Telecommunications Cooperative Association, WC Docket No. 06-223 (filed Feb. 23, 2007); Reply Comments of AT&T Inc., WC Docket No. 06-223 (filed Feb. 23, 2007).

3. In its filing, NECA proposes to revise the formulas for average schedule interstate settlement disbursements in connection with the provision of interstate access services.[7] These proposed revisions contain structural changes to the line haul formula to respond to the decline in cost of some line haul facilities that connect one switch to another.[8] NECA also continues to adjust the formulas to reflect the allocation rules mandated by the *MAG Order*.[9] NECA requests that these modifications take effect on July 1, 2007, and remain in effect through June 30, 2008. NECA also requests approval of a two-year transition plan to phase-in significant settlement reductions that would occur due to reduced revenue requirements resulting from lower net plant investment and continued depreciation, as well as from the structural change to the line haul formula.

4. We have reviewed NECA's filing and find that its proposed formulas are reasonable for use in developing NECA's rates for its 2007 annual access tariff filing. NECA revised the average schedule formulas using procedures consistent with those used in previous filings. NECA states that the revised formulas yield a 7.27 percent reduction in average schedule settlements, taking into account the structural change to the line haul formula to make it more consistent with how costs are incurred. We reject Verizon's request that NECA be required to submit information that would permit Verizon to replicate NECA's formula development.[10] The procedures NECA used to develop its formulas this year are consistent with the procedures used in previous years, and the Commission has consistently approved this approach. Along with its filing, NECA included a detailed document exceeding 600 pages that provided explanations of the statistical methods NECA used to select samples of average schedule and cost companies, along with explanations of NECA's development of average revenue requirements, growth projections, and statistical modeling procedures.[11] NECA also submitted a point-by-point response to specific claims by Verizon that were made in the declaration of Gustavo Bamberger, PH.D., and Lynette Neumann, Ph.D., regarding the sufficiency of the information provided by NECA.[12] NECA's detailed response, contained in the declaration of Stephen Quinnan, Ph.D., adequately address Verizon's specific concerns.[13] Accordingly, Verizon has not demonstrated that the benefits of access to the additional

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7 *2007 NECA Proposed Modification of Average Schedule Formulas* at Section VIII.

8 *Id*. at I-5.

9 *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 19613 (2001) (*MAG Order)*. Specifically, the *MAG Order* required the reallocation of the non-traffic sensitive costs of local switch line ports to the common line category, and the reallocation of the remaining costs of the transport interconnection charge (TIC) to other access rate elements.

10 Verizon Comments at 12-14; *see also* letter from Donna Epps, Vice-President, Verizon, to Marlene H. Dortch, Secretary, FCC (filed May 8, 2007), attaching Declarations of Gustavo Bamberger and Lynette Neumann (Verizon May 8 *Ex Parte* Letter).

11 *See generally 2007 NECA Proposed Modification of Average Schedule Formulas* at Sections II-1-IV-4.

12 Letter from Richard A. Askoff, Executive Director—Regulatory, NECA, to Marlene H. Dortch, Secretary, FCC (filed May 18, 2007), attaching Declaration of Stephen Quinnan (Quinnan Declaration).

13 *See, e.g*., Quinnan Declaration at 2-3. Quinnan explains that Bamberger and Neumann support their claim that NECA has inflated the proposed formulas by more than $100 million by comparing two numbers in NECA's filing. The first number they use, however, is the weighted sum of interstate revenue requirements determined by NECA for its sample of average schedule companies, and NECA does not use totals of sample data to establish revenue requirements for the entire average schedule population. Accordingly, Quinnan explains that Bamberger (continued….)

information it seeks would sufficiently outweigh the burden of its production to warrant a Commission requirement that it be produced.[14]

5. NECA also requests approval of a two-year transition plan as part of its filing, which it states is designed to moderate the effect of the significantly reduced settlements on certain of its members. NECA found that many average schedule companies have significant net plant reductions as a result of continued depreciation along with curtailed new investment, which has caused interstate revenue requirements to decline. NECA also found a marked decline in costs of some line haul facilities that connect one switch to another. The proposed reduced settlement rates would result in 23 study areas losing more than 20 percent of settlements, and 51 more would lose more than 10 percent. The largest effect would be on carriers with between 1000 and 2500 lines. After an approximate 2.94 percent across-the-board reduction in settlements as a result of the proposed formulas, NECA proposes that the remaining reductions produced by the modified schedules would be phased in over 24 months. The transition plan would provide payments to the affected carriers of $24.89 million in the first year and $8.74 million in the second year beyond those received pursuant to the revised formulas. NECA indicates that if the Commission approves the transition plan, one company would lose 12 percent of its settlements in the first year, while all other affected carriers would lose less than 10 percent of their settlements.[15]

6. We approve the transition plan requested by NECA. Although changes in average schedule settlements normally should parallel changes in cost company settlements, we find that the present circumstances do justify a transition plan for average schedule companies to allow those companies sufficient time to adjust to the significant decrease in interstate settlements. We believe this limited transition plan will prevent undue short-term hardships in adjusting to reduced settlements.

7. Finally, we reject the arguments raised by AT&T and Verizon that the transition plan violates the rate-of-return prescription and is an implicit subsidy benefiting NECA pool members in violation of section 254 of the Communications Act of 1934, as amended,[16] and court decisions interpreting that section.[17] To the contrary, NECA developed the proposed average schedule formulas using the appropriate 11.25 percent rate-of-return target. Overall, the result of the proposed formula changes is a reduction in settlement rates of approximately 7.27 percent.[18] Although the statistical modeling used to develop the average schedule formulas provides a satisfactory confidence level for the entire set of average schedule carriers, it does not necessarily provide the same level of confidence concerning the settlements for individual carriers within the set. The effects of the proposed formula changes on the settlements of individual average schedule companies may vary significantly depending on each company's size, demand characteristics, and accounting relationships. As NECA explains, without the transition plan, application of the proposed formulas in July 2007 would cause 23 study areas

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and Neumann should have adjusted their first number for sample non-responses. If they had done this, Quinnan demonstrates that the analysis would show settlements that are nearly the same as revenue requirements.

14 We note that the Verizon May 8 *Ex Parte* Letter was submitted almost three months after initial comments in this proceeding were due.

15 *2007 NECA Proposed Modification of Average Schedule Formulas* at I-6.

16 47 U.S.C. § 254.

17 AT&T Comments at 3-4 (citing *Comsat Corp. v. FCC*, 250 F.3d 931 (5th Cir. 2001); *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 425 (5th Cir. 1999)); Verizon Comments at 8-12.

18 NECA Reply Comments at 3.

to immediately lose more than 20 percent of their settlements, and 51 study areas to lose more than 10 percent of their settlements. Loss of these revenues potentially could interfere with these companies' ability to provide affordable service to the public.[19] The transition plan only takes effect after a carrier's settlements have been reduced by approximately 2.94 percent. The transition plan is thus a targeted approach to assist companies that will be particularly impacted by the reduced settlements, consistent with other situations in which the Commission has used transition plans.[20] Moreover, when considering the overall revenue requirements of the average schedule companies, the transition amount is quite small—approximately 0.8% of NECA's overall revenue requirements.[21]

8. Accordingly, IT IS ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the average schedule formulas proposed by the National Exchange Carrier Association, Inc., on December 21, 2006, SHALL BECOME EFFECTIVE July 1, 2007, and remain in effect through June 30, 2008.

9. IT IS FURTHER ORDERED, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the transition plan included with the National Exchange Carrier Association, Inc.'s filing IS APPROVED.

10. IT IS FURTHER ORDERED, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), section 553(6)(B) of the Administrative Procedures Act, 5 U.S.C. § 553(6)(B), and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that THIS ORDER IS EFFECTIVE UPON ITS RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Albert M. Lewis
Chief, Pricing Policy Division
Wireline Competition Bureau

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[19] *Id*. at 3-4.

[20] *See, e.g.*, *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers,* CC Docket No. 96-262, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001) [subsequent history omitted] (adopting a three-year transition plan for competitive LECs to allow them adjust their business plans prior to being required to charge the same access rates as the competing ILEC); *Revisions to the Average Schedules Proposed by NECA on October 3 1988*, Memorandum Opinion and Order, 4 FCC Rcd 2804, 2812, paras. 58-61 (Com. Car. Bur. 1988) (approving a two-year transition plan in recognition of significant industry changes).

[21] *Id*.